

APPENDIX E

Water Quality Certification

File No. 53937-00
Nucor Steel Decatur, LLC

ADEM

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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ONIS "TREY" GLENN, III, P.E.

DIRECTOR

BOB RILEY

GOVERNOR

October 31, 2006

NUCOR STEEL DECATUR LLC

P O BOX 2249

DECATUR AL 35609

RE: CWA Section 401 Water Quality Certification
Corps of Engineers (COE) JPN# AL06-54 JPN issued May 26, 2006 T4S, R5W, S29
Proposed Dock Expansion Tennessee River, Wheeler Lake.
Morgan County (103)

Dear Ms. Lamont:

This office has completed a review of the above-referenced joint public notice and all associated materials submitted related to the proposed project. Any comments made during the public notice period have also been forwarded to us for review.

From our review, it is understood that the applicant proposes to extend the 74' wide dock by 390' on the east side and 150' on the west side. The extension would be constructed of sheetpile walls, backfilled with crushed aggregate, and decked with reinforced concrete. The extension would involve a deposit of 54 cubic yards (cyd) of fill material below Normal Summer Pool (NSP) Elevation 556 and 23 cyd between Elevations 556 and 560. The majority of the material (2, 445 cyd) would be placed above the 100-year flood Elevation 558.7.

Because action pertinent to water quality certification is required by Section 401(a)(1) of the Clean Water Act, 33 U.S.C. Section 1251, et seq., we hereby issue certification, for a period **not to exceed five (5) years** from the date of issuance, that there is reasonable assurance that the discharge resulting from the proposed activities as submitted will not violate applicable water quality standards established under Section 303 of the Clean Water Act and Title 22, Section 22-22-9(g), Code of Alabama, 1975, provided the applicant acts in accordance with the following conditions as specified. We further certify that there are no applicable effluent limitations under Section 301 and 302 nor applicable standards under Section 306 and 307 of the Clean Water Act in regard to the activities specified.

Please be advised that this certification shall expire **eighteen (18) months** after issuance if initial construction or implementation of the proposed project has not begun, unless an extension is approved by the Department.

To minimize adverse impacts to State waters, by copy of this letter we are requesting the Nashville District Corps of Engineers to incorporate the following as special conditions of the Corps Permit:

1. Please be advised that pursuant to EPA rules and ADEM Admin. Code Ch. 335-6-12, the operator/owner or applicant is required to register for and maintain valid National Pollutant Discharge Elimination System (NPDES) coverage for stormwater discharges prior to beginning construction or land disturbance (1) above the Ordinary High Water Mark, (2) for any non-dredge/fill operations below the Ordinary High Water Mark, (3) construction of associated upland dredge disposal sites that will equal or exceed one (1) acre in size, and/or (4) recovery, removal, re-mining, processing, etc. of material from disposal areas or other sites/areas regardless of size. The regulations also require NPDES registration for disturbance activities less than one (1) acre that are part of, adjacent to, or associated with a larger common plan of development or sale, that may eventually equal or exceed one (1) acre, or if less than one (1) acre in size if stormwater discharges have reasonable potential to be a significant contributor of pollutants to a water of the State or have reasonable potential to cause or contribute to a violation of applicable Alabama water quality standards as determined by the Department. The regulated construction disturbance also includes, but is not limited to, associated areas utilized for support activities such as vehicle parking, equipment or supply storage areas, staging areas, disposal areas, material stockpiles, temporary office areas, and access roads, and pre-construction activities performed in advance or in support of construction such as logging, clearing, and dewatering. Please be advised that a registrant, operator/owner, contractor, or other responsible entity, separately or collectively, must retain NPDES registration coverage for phased developments until all disturbance activity, including phased construction, is complete. Information regarding registration under ADEM Admin. Code Ch. 335-6-12 for discharge of treated stormwater from regulated construction, construction materials management, small non-metallic, noncoal mining, processing and

Birmingham Branch
110 Vulcan Road
Birmingham, Alabama 35209-4702
(205) 942-6168
(205) 941-1603 [Fax]

Decatur Branch
2715 Sandlin Road, S.W.
Decatur, Alabama 35603-1333
(256) 353-1713
(256) 340-9359 [Fax]

Mobile Branch
2204 Penimeter Road
Mobile, Alabama 36615-1131
(251) 450-3400
(251) 479-2593 [Fax]

Mobile - Coastal
4171 Commanders Drive
Mobile, Alabama 36615-1421
(251) 432-6533
(251) 432-6598 [Fax]



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related activity can be viewed/downloaded from the ADEM WebPage at
www.adem.state.al.us/FieldOps/Permitting/Construction/Construction.htm

2. In order to ensure that fill material sources and/or borrow/mining sites have obtained appropriate NPDES permit coverage, the applicant shall provide the Department with the location(s) of the sites and the name, address, and phone number of the contractor(s) related to the material sources and/or borrow/mining sites. If you have any questions regarding the need for the applicant to obtain stormwater permit coverage, to determine if the contractor has obtained stormwater permit coverage, or would like to request application forms/information, please contact the Department's Mining & Nonpoint Source Section by email at mmps@adem.state.al.us or by phone at (334) 394-4311.
3. The owner/operator shall ensure that the proposed activities are in compliance with ADEM Land Division regulations for the permitting/management/removal/remediation or use of any hazardous, toxic, and/or solid waste on the site. Please contact the Department's Land Division at (334) 271-7730 if you have any questions, or to request additional information.
4. Until the project is complete, the applicant shall notify ADEM in writing at least once every two years regarding the status of implementation/construction of the proposed project. This report shall be prepared by a professional engineer (PE) registered in the State of Alabama and/or a Department recognized qualified credentialed professional (QCP) and should provide a schedule of remaining construction for the proposed project as well as certification that pollution control measures specified in the Corps permit and any special conditions specified by ADEM have been and are being properly implemented.
5. Upon the loss or failure of any treatment facility, best management practice (BMP), or other control, the applicant shall, where necessary to maintain compliance with this certification, suspend, cease, reduce or otherwise control work/activity and all discharges until effective treatment is restored. It shall not be a defense for the applicant in a compliance action that it would have been necessary to halt or reduce work or other activities in order to maintain compliance with the conditions of this certification.
6. The applicant shall retain records adequate to document activities authorized by this certification including but not limited to, inspection reports, monitoring information, copies of any reports and all data used to complete the above reports or the application for this certification, for a period of at least three years after completion of work/activity authorized by the certification. Upon written request, the applicant shall provide the Department with a copy of any record/information required to be retained by this paragraph. The applicant shall notify ADEM in writing upon completion of the proposed project that the pollution control measures specified in the Corps permit and any special conditions specified by ADEM have been properly implemented.
7. The applicant shall implement the project in accordance with all plans, designs, specifications, descriptions, drawings, schedules, maps, and other information submitted to the Department relative to the proposed project, unless authorized otherwise by the Department based on a detailed written request by the applicant to modify the project.
8. The applicant shall implement and maintain the Best Management Practices (BMP) Plan for prevention and control of nonpoint sources of pollutants, including measures that will be taken to ensure permanent revegetation or cover of all disturbed areas during and after project implementation, that was submitted as part of the application or required by this certification.
9. The applicant shall implement and maintain appropriate, effective Best Management Practices (BMPs) for prevention and control of nonpoint sources of pollutants during and after project implementation. The applicant, at a minimum, must implement and maintain applicable effective BMPs as provided in the Alabama Handbook For Erosion Control, Sediment Control, And Stormwater Management On Construction Sites And Urban Areas, as amended, Alabama Soil and Water Conservation Committee (ASWCC). A copy of the Handbook can be downloaded or ordered at http://swcc.state.al.us/erosion_handbook.htm. Immediately after completion of the project, the applicant is required to implement and maintain effective measures to ensure permanent revegetation or cover of all disturbed areas.
10. The applicant shall implement a Spill Prevention Control and Countermeasures (SPCC) Plan for all temporary and permanent onsite fuel or chemical storage tanks or facilities consistent with the requirements of ADEM Admin. Code R. 335-6-6-.12(r), Section 311 of the Federal Water Pollution Control Act, and 40 CFR Part 112. The applicant shall maintain onsite or have readily available sufficient oil & grease absorbing material and flotation booms to contain and clean-up fuel or chemical spills and leaks. The applicant shall immediately notify the Department after becoming aware of a significant visible oil sheen in the vicinity of the proposed activity. In the event of a spill with the potential to impact groundwater or other waters of the State, the applicant should immediately call the National Response Center at 1-800-424-8802 and the Alabama Emergency Management Agency at 1-800-843-0699. The caller should be prepared to report the name, address and telephone number of person reporting spill, the exact location of the spill, the company name and location, the material spilled, the estimated quantity, the source of spill, the cause of the spill, the nearest downstream water with the potential to receive the spill, and the actions taken for containment and cleanup.

11. The applicant shall conduct, at a minimum, weekly comprehensive site inspections to ensure that effective Best Management Practices (BMPs) are properly designed, implemented, and regularly maintained (i.e. repair, replace, add to, improve, implement more effective practice, etc.) utilizing good engineering practices to prevent/minimize to the maximum extent practicable discharges of pollutants in order to provide for the protection of water quality. The inspections shall be conducted by a qualified credentialed professional (QCP), qualified personnel under the direct supervision of a QCP, or an ADEM recognized qualified credentialed inspector (QCI), until completion of the proposed activity.
12. Additional, effective BMPs shall be fully implemented and maintained on a daily basis as needed to prevent to the maximum extent possible potential discharges of pollutants from activities authorized by this certification, directly to or to a tributary or other stream segment, that have the potential to be impact a State water currently considered impaired [waterbody is identified on the Alabama 303(d) list, a total maximum daily load (TMDL) has been finalized for the waterbody, and/or the waterbody is otherwise considered a Tier 1 water pursuant to ADEM Admin. Code Ch. 335-6-10]. The applicant shall inspect all BMPs as often as is necessary (daily if needed) for effectiveness, need for maintenance, and the need to implement additional, effective BMPs. Additional effective BMPs shall immediately be implemented as needed and may include but are not limited to sediment retention basins, greater capacity in sediment retention structures, hydroseeding with application of non-toxic tackifiers, grass sodding, non-toxic chemical treatment, erosion control blankets, other effective innovative/alternative technologies, etc. to ensure full compliance with ADEM requirements and the protection of water quality in the impaired waterbody.
13. All construction and worker debris (e.g. trash, garbage, etc.) must be immediately removed and disposed in an approved manner. If acceptable offsite options are unavailable, effective onsite provisions for collection and control of onsite worker toilet wastes or gray waste waters (i.e. port-o-let, shower washdown, etc.) must be implemented and maintained. Soil contaminated by paint or chemical spills, oil spills, etc. must be immediately cleaned up or be removed and disposed in an approved manner. Also, the applicant shall manage and dispose of any trash, debris, and solid waste according to applicable state and federal requirements.
14. Appropriate measures must be taken to prevent the deposition of airborne pollutants such as spray paint, herbicides, excessive road dust, etc. from entering the waterbody.
15. Appropriate measures must be taken to prevent the disposal, minimize to the maximum extent practicable the deposition, and remove as necessary, any material, debris, or liquids resulting from bridge/culvert, building, or other construction and/or maintenance such as waste concrete/cement, wash water, surfactants, sand blasting particles, paint, etc. from falling into or entering the waterbody.
16. Surface drainage patterns should be designed, constructed, and maintained to the extent practicable with swales or other methods to minimize direct runoff into the waterbody and to prevent/minimize the introduction of pollutants. Diversion structures (berms, ditches, etc.) created in order to re-route upgradient stormwater runoff from the proposed project location shall be constructed, stabilized, and vegetated as necessary, prior to commencement of disturbance activities.
17. All materials used as fill, or materials used for construction of structures in a waterbody, must be non-toxic, non-leaching, non-acid forming, and free of solid waste or other debris.
18. The applicant shall monitor instream dissolved oxygen concentrations at ADEM approved locations at least once a month and submit the results to ADEM on a quarterly basis. Sample dates must be a minimum of two weeks apart.
19. Dredged or fill material shall not be sidecast or otherwise placed in adjacent waters or wetlands outside the permitted project area.
20. The applicant shall conduct the proposed operation in a timely manner with all due diligence utilizing good engineering practices in order to reduce potential environmental impacts created by the project to the maximum extent practicable. The applicant shall conduct the proposed operation in an expedient time frame in order to reduce the amount of time to the maximum extent practicable in which turbid water is produced.
21. The applicant shall implement appropriate, effective BMPs, including installation of floating turbidity screens as necessary, to minimize downstream turbidity to the maximum extent practicable. The applicant shall visually monitor or measure background turbidity. The applicant must suspend operations should turbidity resulting from project implementation exceed background turbidity by more than 50 NTUs. Operations may resume when the turbidity decreases to within acceptable levels.
22. Please be advised that (A) ADEM Admin. Code R. 335-6-6-.03 (aaa) [NPDES Rules] defines "Waters of the state" as all waters of any river, stream, watercourse, pond, lake, coastal, ground or surface water, wholly or partially within the state, natural or artificial. This does not include waters which are entirely confined and retained completely upon the property of a single individual.

partnership or corporation unless such waters are used in interstate commerce, **(B)** ADEM Admin. Code R. 335-6-9-.02(i) [Surface Mining Rules] defines "stream" as any body of water having a drainage area in excess of one square mile [640 acres], **(C)** Pursuant to ADEM Admin. Code R. 335-6-12-.21(10) [Construction Stormwater Rules], the installation or use of instream or within-bank sediment storage traps or deposition areas, or other sediment storage/detention BMPs, in waters of the State to control/treat stormwater runoff from construction/ activity, is not authorized, and **(D)** ADEM Admin. Code R. 335-6-12-.21(2)(b)3. [Construction Stormwater Rules], requires proper cleanup/removal or effective stabilization of sediment deposited offsite, in the event of such an occurrence, and effective remediation of sediment or other pollutant instream impacts to the maximum extent practicable.

In recognition that projects are site specific in nature and conditions can change during project implementation, the Department reserves the right to require the submission of additional information or require additional management measures to be implemented, as necessary on a case by case basis, in order to ensure the protection of water quality.

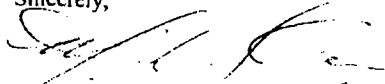
Liability and responsibility for compliance with this certification are not delegable by contract or otherwise. The applicant shall ensure that any agent, contractor, subcontractor, or other person employed by, under contract, or paid a salary by the applicant complies with this certification. Any violations resulting from the actions of such person shall be considered violations of this certification and may subject the applicant to enforcement action.

ADEM certification decisions are predicated on current regulatory requirements, established engineering standards and technical considerations, best management practices information, and formal administrative procedures in conformance with Departmental regulations and applicable Alabama law. Issuance of a certification by ADEM neither precludes nor negates an operator/owner's responsibility or liability to apply for, obtain, or comply with other ADEM, federal, state, or local government permits, certifications, licenses, or other approvals.

This certification does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to persons or property or invasion of other private rights, trespass, or any infringement of Federal, State, or local laws or regulations, and in no way purports to vest in the applicant title to lands now owned by the State of Alabama nor shall it be construed as acquiescence by the State of Alabama of lands owned by the State of Alabama that may be in the applicant's possession.

Should you have any questions on this or related matters, please do not hesitate to contact **Tonya Mayberry, Mining & Nonpoint Source Section**, by email at tmayberry@adem.state.al.us or by phone at (334) 394-4310.

Sincerely,



Steven O. Jenkins, Chief
Field Operations Division

SOJ/tjm

File: WQ401/13776

c: Nashville COE

Permits & Services Division, ADEM

APPENDIX F

404(b) (1) Checklist Determination

File No. 53937-00
Nucor Steel Decatur, LLC

October 2006

404(B)(1) GUIDELINES COMPLIANCE EVALUATION
(40 CFR 230.10)

Nucor Steel Decatur, LLC
(Formally Trico Steel)

Application for Port Facility Expansion (Morgan County Port)
at Tennessee River Mile 297.5, Left Bank, Wheeler Lake, Morgan County, AL

Department of the Army File No. 5393700

RESTRICTIONS ON DISCHARGE(*): An asterisk in a block indicates that the proposal does not comply with the guidelines.

I. Alternatives test.

A. Are there available, practicable alternatives having less adverse impact on the aquatic ecosystem and without other significant adverse environmental consequences that do not involve discharges into "waters of the United States" or at other locations within these waters? [Yes(*)__ No X]

B. If the project is in a special aquatic site and is not water-dependent, has applicant clearly demonstrated that there are no practicable alternative sites available? [Yes__ No(*)__ N/A X]

II. Special restrictions. Will the discharge:

- violate state water quality standards? [Yes(*)__ No x]

ADEM issued a conditional water quality certification for the work. See copy in Appendix F.

- violate toxic effluent standards (under Section 307 of the Act)? [Yes(*)__ No x]
- DA conditions require that any fill material be free from toxic pollutants.**

- jeopardize endangered or threatened species or critical habitat? [Yes(*)__ No x]
- USFWS has stated that the project would not jeopardize. See letter in Appendix B.**

- violate standards set by the Department of Commerce to protect marine sanctuaries? [Yes(*)__ No__ N/A X]

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Evaluation of the physical/chemical and biological characteristics and anticipated changes indicates that the proposed discharge material meets testing exclusion criteria for the following reason(s). [Yes x No]

- (x) based on available information, the material is not a carrier of contaminants
- () the levels of contaminants are substantially similar at the extraction and disposal sites and the discharge is not likely to result in degradation of the disposal site and pollutants will not be transported to less contaminated areas
- () acceptable constraints are available and will be implemented to reduce contamination to acceptable levels within the disposal site and prevent contaminants from being transported beyond the boundaries of the disposal site

III. **Other restrictions.** Will the discharge contribute to significant degradation of "waters of the U. S." through adverse impacts to: (For detailed evaluations, see EA)

- human health or welfare, through pollution of municipal water supplies, fish, shell fish, wildlife, and special aquatic sites? [Yes No x]
- life stages of aquatic life and wildlife? [Yes No x]
- diversity, productivity, and stability of the aquatic ecosystem, such as loss of fish or wildlife habitat, or loss of the capacity of wetland to assimilate nutrients, purify water, or reduce wave energy? [Yes No x]
- recreational, aesthetic and economic values? [Yes No x]

IV. **Actions to minimize potential adverse impacts (mitigation).** Will all appropriate and practicable steps (40 CFR 230.70-77) be taken to minimize the potential adverse impacts of the discharge on the aquatic ecosystem? [Yes x No]

Mitigation measures included in the proposed plan together with the standard and recommended conditions included in the Department of the Army permit would adequately minimize pollution or adverse effects to the affected ecosystem.